

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Wednesday, October 15, 2014
9:30 A.M.
Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: October 3, 2014

RE: Closed Session of the Board to be held on October 15, 2014

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), (e) and (f) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session. Any matter not completed at this meeting may be continued to subsequent meetings. If the closed session agenda is not completed on the scheduled day, the closed session will continue from day to day until completion and adjournment.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

PETITIONS FOR RECONSIDERATION:

1. BENJAMIN KIMMICH DBA KIMMICH CONSTRUCTION, 14-R1D4-9107
2. CLASSIC BATH DESIGNS, INC., 14-R6D2-9104

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. C. R. ENGLAND, INC., 14-R3D3-0649

ORDERS DISMISSING APPEAL:

ORDERS GRANTING LEAVE TO FILE LATE APPEAL:

ORDERS DENYING LEAVE TO FILE LATE APPEAL:

1. CALIFORNIA CONCRETE PUMPING, INC. DBA ASSOCIATED CONCRETE PUMPING, 14-R2D1-9105

MATTERS HELD OVER FROM PREVIOUS MEETINGS:

(If the Board is unable to conclude its deliberations and/or if any matter(s) is (are) put over from a previous meeting, they will be further discussed.)

MATTERS PENDING RECONSIDERATION:

(If the Appeals Board orders reconsideration of an Order or Decision, it reviews the record and then affirms, rescinds, alters or amends the Order or Decision being reconsidered.)

1. A TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 11-R5D1-1895 (ER)
2. A TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 11-R5D1-1895 (DOSH)
3. BELLINGHAM MARINE INDUSTRIES, 12-R2D2-3144 THROUGH 3146
4. CABRILLO ECONOMIC DEVELOPMENT CORP., 11-R4D3-3185 & 3186
5. HARRIS CONSTRUCTION, 03-R2D5-3914
6. HHS CONSTRUCTION, 12-R3D2-0492-0497
7. LANGER FARMS, LLC, 13-R4D7-231 THROUGH 0233
8. MARIA DE LOS ANGELES COLUNGA DBA MERCED FARM LABOR, 08-R2D1-3093 THROUGH 3098
9. McCARTHY BUILDING CO., INC., 11-R4D2-1706 AND 2406
10. McCARTHY BUILDING CO., INC., 12-R1D4-3458
11. NATIONAL STEEL AND SHIPBUILDING COMPANY, 10-R6D2-3791
12. NEWSTAR FRESH FOODS, LLC., 12-R6D3-3183 THROUGH 3186
13. O.C. JONES AND SONS, INC. 13-R2D2-0310

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14. REPUBLIC FURNITURE MFG., INC., 14-R6D2-9083
15. ROEBBELEN CONTRACTING, INC., 12-R2D2-3248
16. ROSENDIN ELECTRIC, INC., 12-R2D1-3028
17. SIERRA FOREST PRODUCTS, 09-R2D5-3979
18. TREASURE ISLAND MEDIA, INC., 10-R6D1-1093 THROUGH 1095
19. VICTORY SCREEN PRINTING 12-R3D1-3673 & 3674
20. WC STAFFING INC., DBA WEST COAST STAFFING, 13-R6D2-3522 AND 3523

LEGISLATION:

PENDING LITIGATION:

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

SUPERIOR COURT:

1. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
2. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-8000820 (03-R1D1-5170)
3. MASCON, INC., 34-2011-80000819 (08-R2D1-4278 AND 4279)
4. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, 34-2011-80000965 (10-0188~0191)
5. FLATIRON CONSTRUCTION CORP, 34-2012-80001029 (10-R4D1-2789)
6. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)
7. THE HERRICK CORPORATION, 34-2012-80001118 (07-0495)
8. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
9. DUININCK BROS., INC., 34-2012-80001129 (06-2871)

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10. C.A. RASMUSSEN, INC., 34-2012-80001241-CU-WM-GDS (08-R4D5-0219 AND 0220)
11. SHIMMICK CONSTRUCTION CO., INC., 34-2012-80001248 (09-R2D3-0399)
12. A TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001258 (05-R2D4-2650 AND 2651)
13. CA DEPT OF FORESTRY, 34-2012-80001263 (10-R2D1-0728)
14. A. TEICHERT & SON, 34-2012-80001265 (05-R2D5-2650 AND 2651)
15. PRESTON PIPELINES, INC., 34-2012-80001277 (09-R6D7-3345)
16. BLUE DIAMOND GROWERS, 34-2012-80001308 (10-R2D1-1280/1281)
17. CLARK PACIFIC PRECAST LLC, et al, 34-2012-80001319 (09-R2D1-0282/0283)
18. A. TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001332 (09-R4D5-0459 & 0460)
19. HOME DEPOT USA, INC., BS141301 (10-3284)
20. PRESTON PIPELINES, INC., 34-2013-8001381 (11-2530)
21. GUARDSMARK, LLC, 30-2013-00651094 (12-R3D1-0056)
22. AC TRANSIT, RG13687314 (08-R1D4-0135)
23. DSS COMPANY DBA KNIFE RIVER CONSTRUCTION, 34-2013-80001575 (12-R5D1-337)
24. BAY AREA RAPID TRANSIT DISTRICT, RG13689346 (09-R2D2-1219 & 1221)
25. CA PRISON INDUSTRY AUTHORITY, 13 C 0327 (08-R2D5-3426 ~ 3429)
26. HILL CRANE SERVICE, INC., 34-2014-80001730 (12-R4D1-2475)
27. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 34-2014-80001749 (2008-R2D1-3414 THROUGH 3418)
28. SHIMMICK-OBAYASHI, 34-2014-80001750 (08-R3D3-5023 THROUGH 5025)
29. TAD VAN NGUYEN, CPF-14-513482 (13-R1D1-9163)

30. BAY AREA RAPID TRANSIT DISTRICT, RG14715710 (10-R1D1-3056 THROUGH 3058) (DOSH)
31. LAND O'LAKES PURINA FEED, LLC, RG14715717 (08-R2D4-1843 AND 1844) (DOSH)
32. BAY AREA RAPID TRANSIT DISTRICT, RG14715720 (10-R1D1-3056 THROUGH 3058) (3rd Party)
33. BRUNTON ENTERPRISES DBA PLAS-TAL MFG CO., 34-2014-80001817 (09-R6D2-2238 ~ 2241)
34. WEST VALLEY CONSTRUCTION, INC., 34-2014-80001832 (12-R2D5-3526)
35. BARNARD IMPREGILO HEALY JV, CPF-14-513697 (14-R5D1-9013)
36. BHC FREMONT HOSPITAL INC, RG13731145 (13-R1D2-0204)
37. IRWIN INDUSTRIES, BS14-9634 (12-R4D3-3276 & 3277)
38. TL PAVLICH CONSTRUCTION, INC., BS14-9660 (11-R3D6-1303 THROUGH 1310)
39. DAVIS DEVELOPMENT CO., 34-2014-80001892 (10-R3D1-3360 THROUGH 3362)

APPELLATE COURT:

1. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP, C075477, 34- 2011-80000640 (08-R2D1-0027 THROUGH 0030)
2. XL CONSTRUCTION, C074514, 34-2009-80000300 (08-R1D2-1191 THROUGH 1193)
3. SHERWOOD MECHANICAL, INC., D065322, 37-2012-00101466 (08-R3D2-4690 ~ 4693)
4. ORANGE COUNTY FIRE AUTHORITY, G050220, 30-2013-00628178 (CONSOLIDATED)
5. AC TRANSIT, A142799, RG13-687314 (08-R1D4-0135)
6. THYSSENKRUPP ELEVATOR CORPORATION, C077115, 34-2013-80001456 (11-R2D1-2217 ~ 2219)

ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

1. ALL AMERICAN FRAME & BEDDING CORP., 14-R6D2-1402 THROUGH 1406
2. ALLIANCE ROOFING CO., 14-R2D2-1756
3. AMPCO SYSTEM PARKING DBA ABM, 13-R3D1-3826
4. A & M VICTORIAN DECORATIONS INC., 13-R6D2-2637 THROUGH 2641
5. BARNARD IMPREGILO HEALY JV, 13-R5D1-3867
6. BARRETT BUSINESS SERVICES, INC. (BBSI), 14-R3D3-2538
7. BELFOR USA GROUP INC. DBA BELFOR PROPERTY RESTORATION,
14-R1D4-2170
8. BLAKE ROOFING, INC., 14-R3D3-2597
9. BORDEN RANCHES, LLC., 14-R3D2-2061 THROUGH 2063
10. BRAD STONER PAINTING, INC., 14-R3D2-2899 THROUGH 2901
11. BRYTE BEND WATER TREATMENT PLANT – CITY OF W. SACRAMENTO,
14-R6D3-0459 THROUGH 0461
12. CALIFORNIA SCREW PRODUCTS, 14-R6D2-1742 THROUGH 1744
13. CITI STAFFING, LLC, 14-R6D2-2001
14. CHANGE OF SCENERY, INC., 12-R4D3-0792 THROUGH 0794
15. CLOSETMAID, INC., 14-R6D2-1363
16. CRI SOCAL, INC., 14-R3D1-0986
17. DE LA MARE ENGINEERING, INC., 14-R6D4-2486 AND 2487
18. DEVELOPMENT CONTRACTOR INC., 14-R3D2-1584

19. DICK FARRELL INDUSTRIES INC., DBA DF INDUSTRIES, 14-R6D2-1325 THROUGH 1328
20. DREES WOOD PRODUCTS INC., 14-R6D2-2099 THROUGH 2101
21. DUNCAN FAMILY FARMS, LLC., 13-R4D7-3611 THROUGH 3613
22. EPPINK OF CALIFORNIA, INC., 14-R6D2-2343 AND 2344
23. FLOWLINE CONTRACTORS INC., 13-R2D1-3316
24. FLOWSERVE CORPORATION, 14-R4D1-2177
25. GARDEN TRUCKING, INC., 14-R3D1-0177
26. GOLDEN STATE FIRE PROTECTION, INC., 13-R3D3-3305
27. JADE RANGE, LLC., 13-R3D1-3464 THROUGH 3466
28. JENSEN MEAT COMPANY, 14-2043 THROUGH 2046
29. JL FURNISHINGS LLC., 14-R3D5-2089 AND 2090
30. J L STUCCO, 14-R3D2-0966 AND 0967
31. KAY DIX INC., 14-R2D1-0470 AND 0471
32. MARUCHAN, INC., 13-R3D1-3334
33. MARY'S GONE CRACKERS, 13-R2D1-2734
34. MCM CONSTRUCTION, INC., 13-R2D1-1376 THROUGH 1378
35. MERCY HOUSING INC – BEVERLY TERRACE APARTMENTS, 14-R2D1-1382
36. NEV-CAL CONSTRUCTION, 14-R3D5-2147
37. OCEAN TERMINAL SERVICES, INC., 14-R3D5-2176
38. ORANGE COUNTY FIRE AUTHORITY RISK MANAGEMENT DEPARTMENT,
14-R3D1-2423
39. OR EXPRESS LOGISTICS, 14-R2D5-1578
40. PACIFIC WIRE PRODUCTS, INC., 13-R4D3-1660 AND 1661

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41. PARAMOUNT PICTURES, 14-R4D1-2654 AND 2655
42. PAR ELECTRICAL CONTRACTORS, INC., 13-R3D3-1585
43. PLANTATION, 14-R6D2-2199 THROUGH 2205
44. PULMUONE FOODS USA, INC., 14-R3D1-2128
45. QUAD GRAPHICS, INC., 14-R3D3-2114 AND 2115
46. RCA INVESTMENTS INC., DBA LONG BEACH BMW MOTORCYCLES, 14-R3D5-2145 AND 2146
47. REALM CATALYST, INC., 12-R4D3-0660 THROUGH 0668
48. RIVIERA BRONZE, 14-R6D2-1275
49. R & M ZAMORA CORPORATION DBA ALL SIZE FOAM & FABRIC, 14-R4D1-0875 THROUGH 0878
50. SANTA FE RUBBER PRODUCTS, 14-R6D2-2445 THROUGH 2448
51. TAOBAO INC., DBA GRAND AMERICAN DOORS, 13-R6D2-3685
52. TIME WARNER CABLE, INC., 13-R4D1-2026
53. THE FILTER FACTORY, 14-R6D2-2074 THROUGH 2076
54. ADAM TOMLINSON, 14-R3D1-0864 AND 0865
55. THUY DIEM TRAN DBA SIMPLY MAID HOME, 14-R1D5-1549
56. TRISTAR PLASTICS AND MOLDING, INC., 13-R3D1-2542 AND 2543
57. TSA STORES, INC., DBA SPORTS AUTHORITY, 14-R3D3-2555 THROUGH 2557
58. UNITED AIRLINES, INC., 14-R4D1-2287
59. UNIVERSAL ALLOY CORPORATION, 13-R3D1-2631
60. VISITING NURSE ASSOCIATION OF INLAND COUNTIES DBA VNA CALIFORNIA, 14-R3D3-1422
61. WALTER N. COFFMAN, INC., 13-R3D2-3651

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62. STEVE WINKLER DBA WINKLER FAMILY FARMS, 14-R2D1-0769
THROUGH 0771

63. YOUNG'S ROOFING, INC., 14-R1D1-1546 THROUGH 1548

PERSONNEL:

(Issues regarding staff.)

Any matter not completed at this meeting may be continued to subsequent meetings. If the closed session agenda is not completed on the scheduled day, the closed session will continue from day to day until completion and adjournment.